

**MEMO# 3696**

April 15, 1992

# **REVENUE RULING ON TRANSITION RULE FOR REPEAL OF EXCLUSION OF ANNUITIES AND IRAS FROM GROSS ESTATE OF DECEDENT**

April 15, 1992 TO: PENSION MEMBERS NO. 6-92 RE: REVENUE RULING ON TRANSITION RULE  
FOR REPEAL OF EXCLUSION OF ANNUITIES AND IRAS FROM GROSS ESTATE OF DECEDENT

Prior to the Tax Reform Act of 1984 ("TRA 84"), Internal Revenue Code sections 2039(c) and (e) provided that a decedent's estate did not include up to \$100,000 of the value of otherwise includible annuities or other payments to the extent attributable to employer contributions under certain retirement plans or with respect to certain individual retirement plans (including IRAs). TRA 84 repealed this exclusion effective for estates of decedents dying after 1984. However, under a transition rule, the exclusion continued to be available to the estate of a decedent who died after 1984 if the decedent (1) was a participant in a plan, (2) was in pay status on December 31, 1984, and (3) had irrevocably elected the form of payment of the retirement and survivor benefit before July 18, 1984. The Tax Reform Act of 1986 ("TRA 86") amended the transition rule to treat certain persons who "separated from service" prior to 1985 as having met the pay status and irrevocable election requirements of the TRA 84 transition rule, even if they had not, provided that the taxpayer did not change the form of the retirement or survivor benefit prior to death. In the attached Revenue Ruling, the Internal Revenue Service considered two situations involving the application of the TRA 86 transition rule to IRAs. In the first situation, the IRA had been established while the taxpayer was employed. The taxpayer retired in 1984 and died in 1988. The taxpayer did not meet the TRA 84 pay status and irrevocable election rule, and he had not changed the form of benefit prior to death. In the second situation, all of the facts are the same, but the IRA was funded prior to 1985 by a rollover from a plan. In both instances, the Service found that the TRA 86 transition relief was unavailable because separation from service is not a concept applicable to IRAs; thus, the transition rule is inapplicable to IRAs. In addition, TRA 84 transition relief was unavailable because neither IRA had gone into pay status prior to - 2 - 1985 or irrevocably elected a form of payment prior to July 18, 1984. Therefore, all of the assets of the IRAs are included in the decedent's estate for tax purposes. We will keep you informed of further developments. David J. Mangefrida Jr. Assistant Counsel - Tax Attachment

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